

## REMARKS

Claims 19-27 remain pending in the instant application and claims 1-18 are withdrawn by the Examiner. Claims 19-27 presently stand rejected. Claims 19 and 27 are amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Response to Arguments*

In the “Response to Arguments” section of the Final Office Action mailed 5/14/08, the Examiner stated, “In response to applicant’s argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.”

While not conceding that there is motivation to combine the Qiao and Chang references, Applicants made no such argument. Applicants argument for patentability was not pursuant to M.P.E.P. § 2143.01 (motivation to combine references); rather, Applicants’ basis for patentability was pursuant to M.P.E.P. § 2143.03, which requires “all the claim limitations must be taught or suggested by the prior art.” In short, as discussed below in the “Claim Rejections – 35 U.S.C. § 103” section, Applicants respectfully submit that both Qiao and Chang fail to disclose, teach, or suggest the very same element of claim 19, and therefore, fail to teach or suggest all claim limitations, pursuant to MPEP § 2143.03.

### *Claim Rejections – 35 U.S.C. § 112*

Claim 27 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 27 has been amended to depend from claim 26, thereby curing the antecedent basis issue.

*Claim Rejections – 35 U.S.C. § 103*

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao, “Labeled Optical Burst Switching for IP-over-WDM Integration”, IEEE Communication Magazine, September 2000, pg. 104-114 (hereinafter “Qiao”), in view of Chang et al. (US 6,160,651).

Claims 20-21 and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao and Chang in further view of Townsend et al. (US 5,850,441). Claims 22-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao, Chang, and Townsend in view of Stringer et al. (US 2003/0196087 A1). Claim 27 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao and Chang in view of Stringer.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Amended independent claim 19 now recites, in pertinent part,

adding information to the control burst **indicating whether or not one or more data bursts** to be sent from the source edge node to the destination edge node **will be encrypted**;

Applicants respectfully submit that the combination of Qiao, Chang, Townsend, and Stringer, either alone or in combination, fails to disclose, teach, or suggest using a control burst (which are used to reserve network resources to form virtual lightpaths) to indicate whether or not a data burst will be encrypted.

While Qiao discloses optical burst switching including the use of control packets and data bursts, Qiao does not teach or suggest using the control packets to indicate whether or not one or more data bursts will be encrypted. In other words, Qiao does not teach or suggest adding information into the control packets illustrated in FIG. 1 of Qiao to indicate whether associated data bursts are encrypted. In fact, Qiao makes not mention of encrypting the data bursts at all.

To be sure, the Office Action acknowledges “Qiao does not teach: one or more data bursts containing the data that are encrypted.” *Office Action* mailed 5/14/08, page

7. Consequently, the Office Action cites col. 2, lines 32-38 of Chang as teaching this missing element. However, this portion of Chang states,

The chaotic optical encryption technique uses what is called "chaotic systems" as the optical encryption method. These are single wavelength chaotic synchronous fiber lasing systems that use amplitude or frequency modulation to introduce a "chaotic state" in the network. The information transmitted through the network is encoded onto chaos at the transmitter side and decoded at the receiver side. This is accomplished by using a synchronized "chaotic state" at the receiving end in order to "de-encrypt" the original optical signal.

Accordingly, Chang discloses use of a chaotic encryption technique that use amplitude or frequency modulation to introduce a chaotic state into an optical network. While Chang discloses the use of encryption in an optical network, Chang does not teach or suggest using control bursts to indicate whether or not a data burst will be encrypted. At best, Chang discloses that a chaotic encryption technique can be used in connection with an optical network. However, Chang does not disclose how its chaotic encryption technique could be integrated with Optical Burst Switching (which is a specific form of optical networking), and more specifically, does not teach or suggest indicating whether or not an optical data burst is encrypted by including such an indication within a control burst.

Townsend also fails to teach or suggest this very same element of claim 19. Rather, Townsend discloses the use of quantum cryptography for use with an optical ring network. However, Townsend fails to disclose use of control and data bursts, much less using control bursts to indicate whether or not a related data burst is encrypted. Stringer also fails to disclose, teach, or suggest this very same element.

Consequently, the cited prior art fails to teach or suggest all elements of claim 19, as required under M.P.E.P. § 2143.03. Accordingly, Applicants request that the instant §103(a) rejections of independent claim 19 be withdrawn.

The dependent claims are nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections of the dependent claims be withdrawn.

### **CONCLUSION**

In view of the foregoing amendments and remarks, it is believed that the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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